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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

MASKULINSKI, MICHAEL C

ART UNIT

PAPER NUMBER

2113

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5

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/869,124 | ISHIGURO ET AL. |
| | Examiner Michael C Maskulinski | Art Unit 2113 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 June 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1,3,5,7-9,13-15 and 19-21 is/are allowed.
- 6) Claim(s) 2,4,6,10-12,16-18 and 22-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 June 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: _____. |

Non-Final Office Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 4, 6, 10-12, 16-18, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida et al., U.S. Patent 6,075,862.

Referring to claims 2, 4, 6, 10, 16, and 22:

- a. In column 5, lines 34-42, Yoshida et al. disclose that the software vendor distributes a plurality of encrypted softwares to users for free or for very small charges in a form of data transferred through the communication network (a contents server for distributing contents data over a network).
- b. In column 5, lines 53-57, Yoshida et al. disclose an installer for decrypting the encrypted software content and installing the decrypted software content into the personal computer of the user (a data processor having a reproduction control program for reproducing and/or controlling contents, said data processor storing the contents data distributed from said contents server on a recording medium for reproduction and/or control).
- c. In column 7, lines 32-50, Yoshida et al. disclose that the software vendor generates a charging information necessary for the charging processing from the software usage charge for the identified software, the user's name, and the

user's credit card number (data processor transmitting the using log information of said contents data to said contents server).

d. In column 6, lines 54-64, Yoshida et al. disclose that in a case of re-installing the software, the encrypted software content to be decrypted and installed by this decryption and install program is to be acquired from the software vender again, for free or for a very small charge (if the contents data cease to be available from said recording medium, said unavailable contents data re-distributed from said contents server).

e. In column 6, lines 65-66, Yoshida et al. disclose that the decryption key storing program registers the decryption key acquired from the software vender by the communication program into the decryption key memory (said data processor also acquiring the using log information from said contents server and performing reproduction and/or control of the re-distributed contents data depending on said using log information).

f. In column 12, lines 34-41, Yoshida et al. teach that a computer program can perform the invention.

Referring to claims 11 and 17, in column 5, lines 56-57, Yoshida et al. disclose a software ID identifying each encrypted software (an ID of contents stored in said recording medium). Further, in column 7, lines 32-41, Yoshida et al. disclose the software usage charge for the identified software (the purchasing recording information of the contents distributed from said contents server).

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Referring to claims 12 and 18, in column 6, lines 28-40, Yoshida et al. disclose that the decryption key retrieval program searches through the decryption key memory unit, and retrieves the decryption key for decrypting the encrypted software content. As described above, the decryption key memory unit registers the software IDs and the decryption keys corresponding to the encrypted softwares that were already installed. Therefore, the decryption key retrieval by the decryption key retrieval program can be realized by a sequential search for sequentially comparing the software ID of a desired software with each software ID registered in the decryption key memory unit, or by a binary search through the software IDs registered in the decryption key memory unit. Further, in column 6, lines 49-53, Yoshida et al. disclose that a communication program is to be executed when the decryption key retrieval by the decryption key retrieval program fails, that is, when the corresponding decryption key does not exist in the decryption key memory unit (said data processing device acquiring an ICV, derived from said use log information, from said contents server, when the contents and/or the contents key stored in said recording medium is destroyed, said data processing device also having contents data corresponding to the destroyed contents data re-distributed from said contents server and reproducing and/or controlling the so-re-distributed contents data depending on said ICV).

Referring to claim 23, in column 5, lines 56-57, Yoshida et al. disclose a software ID identifying each encrypted software (an ID of contents stored in said recording medium). Further, in column 7, lines 32-41, Yoshida et al. disclose the software usage charge for the identified software (the purchasing recording information of the contents

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distributed from said contents server). Further, in column 6, lines 54-64, Yoshida et al. disclose that in a case of re-installing the software, the encrypted software content to be decrypted and installed by this decryption and install program is to be acquired from the software vendor again, for free or for a very small charge (when said accessing is made, it is verified, based on said purchasing recording information, whether or not the contents data that cease to be acquired is the contents already purchased by the user; wherein if it is verified that the contents data that cease to be acquired is the contents data already purchased by the user who made the accessing, the contents data that cease to be acquired are not assessed).

Referring to claim 24:

- a. In column 5, lines 43-45, Yoshida et al. disclose a decryption key (said contents data include contents and/or contents key).
- b. In column 6, lines 54-67 continued in column 7, lines 1-12, Yoshida et al. teach that if the contents and/or the contents key stored in said recording medium in said information processing apparatus are destroyed, accessing is made from said information processing apparatus).
- c. In column 6, lines 28-40, Yoshida et al. disclose that the decryption key retrieval program searches through the decryption key memory unit, and retrieves the decryption key for decrypting the encrypted software content. As described above, the decryption key memory unit registers the software IDs and the decryption keys corresponding to the encrypted softwares that were already installed. Therefore, the decryption key retrieval by the decryption key retrieval

program can be realized by a sequential search for sequentially comparing the software ID of a desired software with each software ID registered in the decryption key memory unit, or by a binary search through the software IDs registered in the decryption key memory unit. Further, in column 6, lines 49-53, Yoshida et al. disclose that a communication program is to be executed when the decryption key retrieval by the decryption key retrieval program fails, that is, when the corresponding decryption key does not exist in the decryption key memory unit (an ICV derived from said use log information and contents data corresponding to said destructed contents data are transmitted in association with said accessing to said information processing apparatus).

Allowable Subject Matter

3. Claims 1, 3, 5, 7-9, 13-15, and 19-21 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter.

Referring to claim 1, the prior art does not teach or reasonably suggest a data processor acquiring using log information from the contents server if the contents data cease to be available from the recording medium, said data processor performing reproduction and/or control of the backup data of the contents data stored in said recording medium depending on said using log information.

Referring to claim 3, the prior art does not teach or reasonably suggest a contents server transmitting using log information to a data processor if the data

processor is unable to acquire the contents data form the recording medium and the data processor reproducing and/or controlling the backup data of the contents data stored in the recording medium responsive to the using log information.

Referring to claim 5, the prior art does not teach or reasonably suggest acquiring using log information from the contents server if the contents data cease to be available from the recording medium and reproducing and/or controlling backup data of contents data stored in said recording medium in keeping with the using log information.

Referring to claim 7, the prior art does not teach or reasonably suggest a data processing device when unable to acquire contents data from the recording medium acquiring data derived from the use log information from the contents server to reproduce and/or control the backup data stored in the recording medium or the other recording medium.

Referring to claim 13, the prior art does not teach or reasonably suggest acquiring data derived from the use log information from the contents server to reproduce and/or control the backup data stored in the recording medium or the other recording medium when contents data cease to be acquired from the recording medium.

Referring to claim 19, the prior art does not teach or reasonably suggest accessing from the information processing apparatus being made when the contents data cease to be acquired from a recording medium in the information processing apparatus and transmitting data derived from the use log information to the information processing apparatus responsive to said accessing to cause the information processing

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apparatus to perform reproduction and/or control of backup data of the contents data stored in the recording medium or the other recording medium in the information processing apparatus responsive to the data derived from the use log information.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2001/0008016 A1 Kotani et al.

U.S. Patent 6,601,046 B1 Epstein

U.S. Patent 6,587,842 B1 Watts

U.S. Patent 6,577,735 B1 Bharat

U.S. Patent 6,023,766 Yamamura

U.S. Patent 5,987,607 Tsumura

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Maskulinski whose telephone number is (703) 308-6674. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoleil can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MM



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